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SUBJECT: Vietnam's New Law on Residence - Old Wine in a New Bottle?

Ref: 06 Hanoi 3012

Summary

¶1. (SBU) Vietnam's newly revised Law on Residence, due to take effect on July 1, 2007, loosens many regulations governing "ho khau," a cumbersome residency registration requirement in existence for many years. Without ho khau in a particular locality, it is often difficult for individuals and families to purchase property and receive public services such as healthcare and education. Getting around this residency requirement has been a long-standing catalyst for official corruption. While many welcome the new law for its simplified procedures and reduced paperwork requirements, depending on how the new law is implemented, the ho khau system could nevertheless remain open to abuse and a source of corruption. End Summary.

¶2. (SBU) There are currently over 380 sets of government regulations related to or contingent on ho khau, and those who are unable to receive ho khau for a particular locality are unable to buy a home or piece of land per GVN law. In addition, one's access to public education and healthcare benefits can also be limited. In many cases, children of families without ho khau are forced to attend and pay for private schools instead of public schools or, to a lesser degree, may not attend school at all. That said, individuals with means or connections are often able to get around the ho khau requirements through bribery, favors or other methods.

¶3. (SBU) The new Law on Residence -- one aim of which was to mitigate, if not remove, an everyday catalyst for official corruption -- was hotly contested, particularly by the Ministry of Public Security, which argued that the GVN's existing system for controlling the movement of people remains a necessity. The National Assembly ultimately approved the new law on November 29, 2006 (reftel). It includes six chapters of text with 42 articles that confirm the principle of freedom of residence within Vietnam (similarly guaranteed by the Vietnamese Constitution). The Law also simplifies several administrative procedures regarding residency management.

¶4. (SBU) Under the new Law, registration of ho khau by individuals originally from the provinces, but now living and working in big cities such as Hanoi and Ho Chi Minh City, is expected to be much more streamlined. One new provision is that "citizens who have a legal place of residence in a centrally governed city for at least one year, or who have been transferred/recruited to work in State-owned organizations/agencies and who have a legal place of residence" can register ho khau. For localities other than centrally governed cities, the only requirement is "having a legal place of residence." Explaining the term "legal place of residence," Deputy Minister of Public Security Dang Van Hieu said at a recent public forum this means "a house hired or leased with a written document." Some observers have noted that this requirement will continue to make it possible for the authorities to deny ho

khau to certain individuals by pressuring landlords not to issue the requisite "written document."

¶5. (SBU) Some National Assembly delegates have expressed concern that the new law will not really change anything, noting that abuse of the ho khu system, and its "bribery culture," will likely continue. To fix this, they have proposed that the Office of the Government direct competent agencies to study, correct or abandon irrelevant regulations related to ho khu to ensure that people's rights and interests are protected.

Comment

¶6. (SBU) In general, with the new law's provision targeting citizens who have had "a legal place of residence for at least one year," the chances for Vietnamese citizens to obtain ho khu in major cities have improved. Depending on how it is implemented, however, the law could still serve as a GVN check on migration, a possible obstacle to securing public education, healthcare and home ownership and a catalyst for official corruption.

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